

the difference between regular and irregular, but I am asking you specifically what did you notice about her eye, particularly. A. We notice what are known as nerve rings, a broken-down nerve condition will put a ring or a circle in the iris of the eye. Q. Did you say you observed those circles? A. I did. Q. Would that be apparent to anybody but you? A. Any person that their attention would be called to it. Q. But otherwise, to the general public, the eye would look exactly the same as any person in normal condition? A. Probably. Q. But you discovered these things? A. There are certain schools that teach these things. Q. But I am speaking about the ordinary persons like ourselves for instance, you would say that that peculiarity might exist in the eye, and be impossible for us to observe it? A. You would observe it if your attention would be called to it. Q. What do you mean by calling attention to it, somebody telling you that he sees circles in the eye? Can the ordinary person, simply by looking at the eye, discover these circles that you say are in it, not by having their attention called to it, but from his own observation? A. Not necessarily, you would not think of it, naturally you would say that "I do not see any difference in their eye than I do any other person's eye"; it is a matter of education along that line. Q. You claim it takes an educated man to discover these circles in the eye? A. It does. Q. And you claim you are such a man? A. I graduated for that purpose. Q. Do you claim that you are such a man? A. I do. Q. Well, Dr. Atkinson, passing from the condition of extreme nervousness which you diagnosed to exist in Miss —, what physical conditions did you discover as the result of your examination? A. I noted that there had been an old fracture of the right tibia, the right leg, just above the ankle, an old fracture on the right leg just above the ankle. THE COURT: Q. Did you have to look at the fracture to reach this conclusion that you arrived at by the eye? A. I had not looked nor made any physical examination of any kind when I noted this, I had not looked at the leg at this time. Q. How did you come to see this, then, if you had not looked at it? A. Those things are marked also on the eye. Q. You could tell, from her eye, that she had a scar on her leg? A. You certainly can. The next thing that I found was that there had been a dislocation on the left side between the head of the femur and the acetabulum, that is a dislocation of the left hip joint. Q. Could you tell that through the eye, too, Doctor? A. Yes, sir; the next thing \* \* \* was that I found what appeared to be a traumatic injury to the spine, in the lumbar region, \* \* \* and that appeared to be between the first and fourth lumbar vertebrae. Q. You could tell the exact location on the spinal column, by looking at the eye of the patient? A. Yes; and there was a new formation, a new growth in the abdomen between the same region. A JUROR: Q. What does that mean, "growth"? A. It might be a tumorous growth, it might be a cancerous growth, it was a new growth; I did not make any tracing out of that to find out what it was; I noticed that there was a growth there, later I verified it. THE COURT: Q. You felt that? A. I felt there afterwards to find out. I found out an apparent lesion here on the floor of the fourth ventricle of the brain. Q. Repeat that. A. That is, it seemed to be a sort of a little blood clot or rupture, or it had been from some violence or jerk or force to have caused a little lesion in the brain; and that was the result of my eye diagnosis. Q. Well, did you afterwards (verify) this from a physical examination? A. I did. THE COURT: Q. Why was that necessary if you found it all out by looking at the eye? A. Usually to prove your conditions you will verify them, if possible. Q. So you are not certain by the eye? A. We are. Q. Well, then, why do you find it necessary to go further, if you are certain? A. The young lady came for treatment, and in giving treatment naturally we verify those. Q. Why verify those conditions if you are certain? A. It would not be necessary to verify it to be certain. Q. But you did? A. When you can verify it, when you go to give treatment for to convince a patient, if you tell a person he has a certain thing the matter with them and they do not tell you, and you can convince a person that there is such a thing the matter, when you prove it to them. Q. But your eye observation, according to your statement, that rendered you certain that all these conditions existed? I ask you why then, if you were certain about it, you thought it necessary to go further? A. The patient might not be certain about it. \* \* \* Q. You did not treat this patient? A. I did. Q. What did you do? A. I gave her an osteopathic treatment, and I adjusted the dislocation. Q. What dislocation? A. Of the head of the femur, I pulled it back in place. Q. What? A. I reduced the dislocation. Q. On which side of the femur, whereabouts was the dislocation which you say you adjusted? A. On the left side. Q. Whereabouts, what portion of the femur? A. This joint here (showing). Q. Near the neck of the femur? A. Yes; where the head of the femur enters into the acetabulum. Q. So you found that that had been removed? A. Not removed; it was partially dislocated—it was a partial dislocation. Q. Well, could the patient walk in that condition? A. Not very well. Q. So there you got an objective symptom? A. Yes, sir. Q. You did not have to look in the eye to find that out? A. No; but I looked in the eye first. \* \* \* \*

#### CROSS EXAMINATION ON BEHALF OF DEFENDANT CITY AND COUNTY OF SAN FRANCISCO

Q. Where are you a graduate from as a physician? A. The University of Glasgow. Q. And where is this other school of this eye-system? A. I am also a graduate from Chicago, I graduated from the eye in London. Q. What place in London? A. In Liverpool. Q. Which is it, Liverpool or London? A. I have been graduated from both; I graduated from one school in London. Q. Which college in London? A. The Pantopathic. THE COURT: Q. What does that mean? A. It means all things; just about the same as our drugless schools today. Q. And in Liverpool what did you graduate from? A. I graduated along the same lines, along some of our newer methods, it was known then as a different branch of the osteopathy, it was known as a drugless school at that time. \* \* \* Q. Now, you simply look in the eye and diagnose from that? A. I do. Q. These different things that you say you found wrong with Miss —, did you find different indications in the eye that showed those, or were they all visible at once? A. Oh, no, there are different areas in the eye, just like taking the different points of a compass, there are certain areas and they show forth. Q. (Interrupting) And what did you see in the eye that indicated that there was something abnormal with the patient? A. You may see a little speck, a spot, a difference in the depth of the coloring matter, such as the blue part of the eye will turn gray, which will simply mean inflammation, a catarrhal condition will turn a different color; a poison will turn a dark color, and so forth. Q. And from that you can elicit the ailments that the patient has? A. I have done it for 20 years, and I have never had any one come back and say I did not give them the right diagnosis. \* \* \* Q. Do you think it would be possible for a person with a dislocated femur to get off of one car, walk a block or two on the street, and get on another car, go up the steps, leave that car and go up the steps to her house and lie down, without noticing any dislocation? A. Well, a partial dislocation—a complete dislocation you would not be able to do it at all, but on a partial dislocation, that is, where the ligaments and so forth are only strained, you could do it. \* \* \* Q. Wouldn't it be impossible if that femur be dislocated? A. It would be impossible if it was completely dislocated. \* \* \* Q. How much of a dislocation did you find? A. The ligaments connecting there were strained and when I put her in the proper position for to adjust it, they cracked right in, probably it was out about three-eighths of an inch, three-eighths to half an inch. Q. In which direction, Doctor? A. To the outside, would make the leg at that time probably a little short. Q. Would cause her to limp, wouldn't it? A. It would cause her to limp, and afterwards we got her heels together and I stretched them out. \* \* \* \*

### Medicine Before the Bench

In this column will appear with appropriate comment, from month to month, court decisions and proceedings affecting the various phases of medical practice, the conduct of hospitals and the enforcement of public health laws.

#### DOCTOR NOT INSURER OF RESULTS

##### Judge Dudley Kinsell Dismisses Action Against Doctor Majors

For the seventh time the same case has been brought against Dr. Ergo Majors and likewise dismissed seven times because of lack of evidence. The persistence of the plaintiff's attorney in the force of so many defeats is remarkable.

The action, entitled Andrew Martin plaintiff vs. Dr. Ergo Majors defendant, was filed in the Superior Court of Alameda County. The plaintiff claims heavy damages for the death of a nine year old daughter by reason of the alleged negligence of Dr. Majors while acting as County Physician in caring for the indigent sick.

The seventh amended complaint which has just been dismissed, charged Dr. Majors with having failed to use the remedies and treatments ordinarily used by physicians and surgeons practicing at Oakland, and thereby failed to prevent the child from contracting the disease of tetanus, and that early in the treatment the child had every symptom of tetanus, and that the physician failed to use the ordinary remedies and treatments therefor known to the ordinary physician and surgeon of the community, and that the child died of tetanus.

The case came on for trial before Hon. Dudley Kinsell, Judge of the Superior Court, and a jury, March 24, 1920; Messrs. C. A. Linn, Frank J. Mahoney, and John W. Preston appearing for the plaintiff; and Messrs. D. C. Dutton, Greene Majors and Hartley F. Peart appearing for Dr. Majors.

After the jury was impaneled, plaintiff's counsel made their opening statement of what they expected to prove on behalf of the plaintiff; they stated that they expected to show that the little girl ran a sliver in her foot and was out of school three or four days by reason thereof, when the truant officer discovered the condition of the foot and took the child to the doctor; that the doctor lanced the swollen foot and that the condition of the child was improved on the occasion of subsequent visits to the doctor's office; that she, however, had every symptom of tetanus at a certain period during these visits and that the doctor failed to administer anti-tetanic serum, that it was not the doctor administer anti-tetanic serum, that while a prudent and careful doctor would administer anti-tetanic serum, that it was not the practice of the ordinary physician engaged in his profession at Oakland to do so, but that as a matter of law the child had a right to expect that the doctor would administer such serum, which would have given her a fifty per cent chance of recovery from the disease.

Upon such opening statement the attorneys for defendant moved for a judgment of non-suit and dismissal upon the ground that the doctor was not an insurer of results. While contending that the facts would show that when the child was first brought to Dr. Majors he found pus present and that the wound was so old that the administration of the serum would be unavailing, and that there were no symptoms of the disease present at any time while under his care, Dr. Majors' attorneys nevertheless maintained that even taking the plaintiff's statements of his expected proofs in their fullest meaning, that no judgment against the doctors could stand upon them, it not being alleged that the doctor had by unsanitary equipment or instruments infected the child or that the doctor could have saved the child's life by the use of any remedies known to the profession.

After extended arguments Judge Kinsell granted the motion and dismissed the case. Plaintiff's counsel expressed their intention of appealing to the Supreme Court.

The legal question involved is entirely novel in California, but there are decisions in eastern states sustaining the principle announced by Judge Kinsell in his decision.

#### CONSTITUTIONALITY OF MEDICAL PRACTICE ACT ATTACKED AND AFFIRMED

One of the profitable pastimes of various cults, who desire to make money at the expense of public health and in defiance of the laws of the state, is to attack the constitutionality of the laws that are made to safeguard the public. Almost invariably when one of these lawless incompetents is arrested for endangering the health of the community by treating and charging the sick without any known qualifications he sets up a cry that he is being persecuted by a mysterious medical trust. When a law breaker is arrested for selling real estate without a license, running an automobile without a license, hunting without a license, running a jitney without a license or any other occupation for which the state of California demands a license, there is no public clamor that the real estate trust, or the automobile trust or the hunter's trust, or the peddler's trust or the jitney drivers' trust is trying to persecute somebody. The law is made for the protection of the public and must be administered impartially to all.

The clamor of some chiropractors, a small group

of osteopaths and Chinese herbalists who either have not the qualifications to pass the easy examinations given by the State of California or refuse to recognize the authority of the state to examine them will not affect the impartial attitude of those engaged with the responsibility of enforcing and interpreting the laws.

The District Court of Appeals in a recent opinion upheld the Superior Court of Sacramento in finding T. Wah Hing, a Chinese herbalist, guilty of violating the Medical Practice Act. Hing made the old familiar attack on the Constitutionality of the law, which a few inferior newspapers filled with chiropractic and herbalist ads. seem to regard as new and meritorious.

If the construction of the law were left to these defiant chiropractors, herbalists, or to any private group as the court states, "all persons would be permitted to practice medicine or any mode or system of healing, without being licensed and would make the matter of procuring a license or certificate merely optional." The raid upon the public health that would be made by clamorous charlatans and quixotic quacks if examinations were abandoned and ignorance turned loose is fearful to contemplate.

The People of the State of California were represented by Attorney General U. S. Webb and J. Charles Jones deputy attorney general in the case against T. Wah Hing who held himself forth as ready to treat any kind of a case. Hing was tried, convicted and sentenced to imprisonment in the county jail of Sacramento for a term of four months and by a fine of \$500.

### Medical Items in California Press

#### DR. JAMES H. THOMPSON ARRESTED AGAIN

Dr. J. H. Thompson arrested for the fifth time by the Oakland police on a charge of performing a criminal operation.—San Francisco "Examiner."

The Board of Medical Examiners at the February 1920 meeting, revoked the license of Dr. Jas. H. Thompson who caused a writ of review to be issued and the case is now pending in the Superior Court of San Francisco.

#### Reciprocity Certificate Denied

Tanzo Yoshinaga, Japanese physician, denied reciprocity certificate based on Wyoming credentials. He was arrested in Sacramento under the license issued to K. Isari who was at the same time in Los Angeles.—Sacramento "Bee."

#### FALSE TITLE PUNISHED

Dr. William Lochman of Los Angeles was found guilty of practicing under a name other than his own at a hearing before the Board of Medical Examiners in Los Angeles, February 18, 1920, and sentence was suspended until the June, 1920, meeting.—Los Angeles "Record."

#### COLLECTED CLIPPINGS ON MEDICAL LAW ENFORCEMENT

#### President of Chiropractic College Arrested Three Times

"Dr." A. W. Richardson, president of the California Chiropractic School, 209 Powell Street, San Francisco, was arrested in April on a battery complaint sworn to by Lee Landers, 1110 Fourth Avenue, Oakland. Landers said Richardson attacked him because Landers complained to the State Board of Medical Examiners that he had been fleeced by the authorities of the Powell Street College.

May 15 "Doctor" Richardson was arrested on a charge of violating the Medical Practice Act. When his case was called in Judge T. I. Fitz-